



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
SEPTEMBER 19, 2007
Approved October 17, 2007**

MEMBERS PRESENT

Dorothy Carrier, Chair
Joanne Rogers, Vice Chair
John Papacosma
Kenneth Cichon
Robin Brooks
Roberta Floccher, Associate

MEMBERS ABSENT

STAFF PRESENT

Jay Chace, Planner

The Town of Harpswell Planning Board meeting being duly advertised in the Times Record was called to order at 6:30 p.m. by Ms. Carrier, Chair.

Ms. Carrier, Chair, read the agenda and explained the hearing process and procedures for Planning Board meetings.

Ms. Carrier reviewed the site visits held on September 17, 2007 attended by Ms. Rogers, Mr. Cichon, Mr. Papacosma, Mr. Chace and Ms. Carrier to the Lee and Sara Theberge property and the Bruce Davis property.

Ms. Carrier welcomed Ms. Roberta Floccher as a new Associate Planning Board member.

Minutes of August 28, 2007

Ms. Rogers moved, seconded by Mr. Brooks to accept the minutes of June 20, 2007 as printed. One abstained.

OLD BUSINESS

No old business.

NEW BUSINESS

ITEM 1

07-09-01 Lee and Sara Theberge, Reconstruction of Non-Conforming Structure, Shoreline Business District, Tax Map 27 Lots 35 & 37, 6 Merritt House Road, Orr's Island.

Mr. Theberge described the project highlighting past permits he has received, discussions with the Code Enforcement Office and the Planning Department, the historic significance of the structure, and the current proposal. Mr. Theberge discussed the rights-of-way and deeded rights of both lots. Mr. Theberge stated that he recognized that this proposal if approved would be post construction.

The Planning Board discussed correspondence to Mr. Theberge from the Code Enforcement Office. Ms. Carrier stated for the education of the public that before start of construction on any project an applicant is required to comply with the Town of Harpswell Ordinances. Ms. Carrier stressed that there is no authorization for an applicant to come before the Planning Board with an already built application.

Mr. Theberge stated that he was in compliance, that the plans showed the project in its entirety and explained that he was building this incrementally and had permits for all work to this point.

Mr. Cichon stated that when the decision with regard to jurisdiction on Mr. Theberge's project was because the Planning Board simply did not understand the proposal. Mr. Cichon recommended that anyone coming before the Planning Board with a jurisdictional matter to make certain that that the Planning Board clearly understands the proposal.

Mr. Chace discussed the merger of the two lots and the elimination of a non-conforming structure.

Ms. Carrier, Chair, opened the floor to comments from members of the public present with regard to this agenda item.

None being seen, Ms. Carrier closed the public portion of the meeting.

The Planning Board discussed the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and adjacent properties, the location of the septic system and other on site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

Mr. Chace pointed out to Mr. Theberge that any future building may be restricted by the current lot coverage percentage.

Ms. Rogers moved, seconded by Mr. Brooks that based on the information provided by the applicant submitted on August 27, 2007 that the application meets the requirements of § 10.3.2.2 of the Shoreline Zoning Ordinance. Unanimous Approval

Mr. Cichon stated for the record that is absurd to move the Merritt House and the applicant is proposing to eliminate the non-conformity on the back lot which is a benefit to the Town of Harpswell.

The Planning Board reviewed the criteria of Basic Land Use Ordinance §13.4.7.

Ms. Rogers moved, seconded by Mr. Cichon that based on the findings established as part of the record in the Town of Harpswell Planner's memorandum dated September 12, 2007, to find that the application meets the requirements of § 13.4.7 of the Basic Land Use Ordinance and approve this application with the following conditions: prior to the issuance of the certificate of compliance the application shall provide the Code Enforcement Office with evidence of the lot merger prior to the issuance of the certificate of compliance the applicant shall remove the cottage from Lot 37. Unanimous Approval

Mr. Papacosma stressed that there could be very severe penalties such as having to remove a building that was constructed without compliance with the Town of Harpswell Ordinances.

Mr. Theberge expressed his appreciation for the three years that Mr. Chace has worked with the Town of Harpswell and wished Mr. Chace well in his next position.

07-09-02 Bruce F Davis, Minor Site Plan Amendment, Interior District, Tax Map 32 Lot 54, 1624 Harpswell Islands Road, Orr's Island.

Mr. Chace distributed documentation received today with regard to Mr. Davis's application. The Planning Board reviewed the September 19, 2007, letter to Mr. Davis from Mr. Stephen P. Robbins, a letter from abutter

Mr. Charles McIlvaine III dated September 19, 2007, a memorandum from Mr. Davis to Mr. Chace dated September 19, 2007, and an addendum to Planner's memo dated September 19, 2007.

Mr. Davis stated that he was requesting the Planning Board's approval to make a minor change to the approved site plan to change the café from a seasonal use to year round and to place the rest of the building in general duty professional office space rather than as an art gallery/real estate office.

Ms. Carrier stated that reason for this application is because the use of the Fish Net Café was changing from a seasonal use to a year round use.

Mr. Chace reminded the Planning Board that the ice cream shop was approved as a take out and now there will be seating for the restaurant. Mr. Chace referred the Planning Board to § 3 of the Site Plan Review Ordinance.

Mr. Davis stated that the Ordinance requirements are the same for a seasonal use as they are for a year round use. Mr. Davis expressed his displeasure with the difficulties in trying to run a business and comply with the Ordinance requirements.

The Planning Board discussed the change in use, the need for additional employees, seating capacity, number of employees, clarity in the proposed uses, assurance that the documentation submitted reflects the actual proposal, complaints from neighbors with regard to noise, intensity of use, previous approvals, addition of public restrooms, septic system capacity, and the criteria of § 15 of the Site Plan Review Ordinance.

Mr. Chace stated that the application before the Planning Board is for a 22 seat restaurant, that the Code Enforcement Office will be in charge of determining compliance, and it is the Planning Board's discretion as to how it will proceed

The Planning Board discussed the number of seats counted by the Planning Board members at the site visit held on September 17, 2007, which totaled 32, the 22 seats approved for the café, whether to take more time to review the application or move forward with the proposal as presented, and confirmation that the applicant is complying with the Planning Board approval with regard to seating.

Mr. Davis stated that he was requesting the Planning Board's approval for 22 seats and will come back later to ask for more seating as needed. Mr. Davis stated he understands the concern but that the complaints regarding the noise are from one person, that he has not heard from the Cumberland County Sheriff's Department, that he does not believe the noise is excessive, and that he does not believe that he is breaking any ordinances.

Ms. Tracy Hillman, 9 Bangs Shore Road, abutter, stated that she has not heard any noise from the Fish Net Café this year at all.

Mr. Chace reported on his research with the State and Sheriff's Department with regard to bring your own beer functions which does not require any licensing and karaoke as far as a noise issue the sheriff can get involved from 11:00 pm to 7:00 am.

Ms. Carrier moved, seconded by Mr. Cichon that based on the Planner's memorandum of September 13, 2007 and September 19, 2007, and except as otherwise provided in § 16.4 of the Site Plan Review Ordinance, as may be amended from time to time, the property described in the Planning Board application of Mr. Bruce Davis, received on August 29, 2007, and further described in a letter received on September 19, 2007, maybe

developed and used only as depicted in these documents. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.

Ms. Rogers pointed out that if the motion is approved the language would be changed to include "offered to small professional businesses". Ms. Rogers suggested an amendment to include the stipulation that out of the 1,900 square feet no more than 50 percent be dedicated to retail and that there will be no more than five employees.

Ms. Carrier moved to amend the motion, seconded by Mr. Cichon as follows: that based on the Planner's memorandum of September 13, 2007 and September 19, 2007, and except as otherwise provided in § 16.4 of the Site Plan Review Ordinance, as may be amended from time to time, the property described in the Planning Board application of Mr. Bruce Davis, received on August 29, 2007, and further described in a letter received on September 19, 2007, maybe developed and used only as depicted in these documents. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board conditioned upon the following that out of the 1,900 square feet no more than 50 percent be dedicated to retail and that there will be no more than five employees. Unanimous Approval

OTHER BUSINESS

Consideration of Planning Board exercise of jurisdiction over applications(s) pursuant to Site Plan Review Ordinance § 16.4 and/or Shoreland Zoning Ordinance § 10.3.2.3.

Mr. Chace asked Ms. Thibault to address the Planning Board with regard to the jurisdictional issues.

ITEM 1

Frank Goudreau, Tax Map 62 Lot 196, 922 North River Road

Ms. Thibault described the proposal to reconstruct both buildings, the addition of a second story to the main cottage and that both buildings are going to become less non-conforming.

The Planning Board discussed the proposal.

Ms Rogers moved, seconded by Mr. Brooks to remand exercise of jurisdiction with regard to the application of Frank Goudreau to the Code Enforcement Office. Unanimous Approval

ITEM 2

Catherine A Leonard, Tax Map 13 Lot 27, 120 Birchmere Lane, Harpswell.

Mr. Chace reminded the Planning Board of the discrepancies found in the documentation at the last meeting.

Ms. Thibault distributed new documentation received today to the Planning Board. Ms. Thibault discussed the stairs and the new numbers provided by the applicant.

Ms. Rogers moved, seconded by Mr. Brooks to remand exercise of jurisdiction with regard to the application of Catherine A Leonard to the Code Enforcement Office. Unanimous Approval

Planners Updates

Mr. Chace informed the Planning Board that his last day would be Wednesday September 26, 2007. Mr. Chace expressed his appreciation for all the kind words that he has received over the past days and the folks in the community who welcomed him and were supportive of him while he was working for Harpswell. Mr. Chace stated his admiration for all the volunteers who give their time on Boards and Committees in support of the Town of Harpswell and the Harpswell community. Mr. Chace stated that there is a proposal before the Selectmen for an interim Planner and that an advertisement for a Town Planner would be going out soon.

Mr. Chace informed the Planning Board of the October 4, 2007, meeting with the Selectmen and Code Enforcement Office at 4:30 pm.

Ms. Carrier expressed her pleasure in working and growing with Mr. Chace during his time with the Town of Harpswell. Ms. Carrier wished him well and stated that he would be missed.

There being no further business before the board Ms. Carrier moved, seconded by Ms. Rogers to adjourned the meeting.

Meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Marsha M. Hinton
Planning Assistant